

REMARKS

Applicant thanks the Examiner for the Examiner's comments, which have greatly assisted Applicant in responding.

DRAWING OBJECTIONS UNDER 37 CFR 1.83(a)

By means of new Fig. 1a, the respective objection outlined on page 2 of the Final Office Action should now be overcome. Support for the amendment to the drawing can be found amply in the Specification and at least in the accompanying text for Fig. 1a. Removal of the objection and reconsideration are respectfully requested.

CLAIM REJECTIONS – 35 U.S.C. § 103

(a) Claims 12 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Heymann *et al* ("Heymann") US 4527707 in view of Sluiter (2002/0033392.) (b) Claims 12-14, and 17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dutch (NL 9300986) in view of Sluiter (2002/0033392.) (c) Claims 12-14, and 17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dutch (NL 9300986) in view of Sluiter (2002/0033392) and Heymann. (d) Claims 12, 14, and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kuhns (4460214) in view of Sluiter (2002/0033392.) (e) Claim 17 is rejected under 35 U.S.C. §103(a) as being unpatentable over Dutch (NL 9300986) in view of Sluiter (2002/0033392) and further in view of Sterett (US 5361906.) Applicant respectfully traverses.

On pages 3-5, the Examiner applies various combinations of the prior art references cited so far in an attempt to show that the subject-matter as defined in the pending claims is obvious, a conclusion that is not at all justified.

Combination of Heymann and Sluiter

On page 3 of the Office Action the Examiner argues that the disclosure of Heymann is pertinent in that it shows in Figs. 1-3 a transport container system comprising a crate and a top wherein the crate has fasteners 20 for attaching the top. Clearly, the crate shown in Heymann does not comprise lateral walls that define a lattice. On page 10 of the specification in the second paragraph it is explicitly mentioned that the lateral walls are formed by "lattice-structured lateral wall parts" 11, 11a, 12 and 12a. As can be seen from Fig. 1a, these reference signs refer to the respective sidewalls as a whole, i.e. in accordance with the teachings of the present invention, a simple recess or hole in a sidewall does not make up for a lattice-structured sidewall, rather the entire sidewall itself is to be formed as a lattice structure, i.e. as a framework or structure of crossed strips of material. Further reference is made to page 7, second paragraph, where reference is made to a hook-shaped fastening means that attachably engages in the lattice structure of a wall surface of a transport container.

Thus, the Examiner's conclusion given on page 3, last paragraph, that the applicant's drawings only describe one recess that therefore defines the lattice structure is respectfully traversed. As outlined above, the term "lattice" has a well-defined meaning in the English language, namely a framework of a structure of crossed strips of material and nobody reading the term "lattice structure" would consider a simple hole in a wall surface to make the wall a lattice-structured wall.

The Examiner further refers to Fig. 9 of Heymann, teaching a wire rack 58. The Examiner feels that it would have been obvious to replace the crate and fastener of Figs. 1 to 3 with a wire rack 58 and fastener 56 of the Fig. 9 embodiment to provide a crate having a lattice structure. This conclusion is respectfully traversed and is actually not at all justified as a man of ordinary skill would not at all consider modifying the arrangement of Heymann in such a way that the crate 14 would have a lattice structure. This would be in clear contradiction to the teaching of Heymann that describes a device for securing a debris holding tray to a glass

or dish rack. As is described in the specification, for example, on page 4, lines 58-65, the disclosure of Heymann comprises a "debris holding tray" 12 that includes vertical sidewalls 14 and a bottom 16, and to this debris holding tray the rack 4 is attached. Thus, modifying the structure of the sidewall 14 in such a way that same would have a lattice structure would be in clear contradiction to the teaching of Heymann as the purpose of this part of the structure of Heymann would no longer be fulfilled, namely any debris could flow out of the crate, which is not desired.

Therefore, a man of ordinary skill would not consider modifying the arrangement of Heymann in a way as suggested by the Examiner on page 3, last paragraph of the Office Action.

Therefore, the conclusion that the subject-matter as defined in the present application is unpatentable over Heymann et al. in view of Sluiter is not at all justified.

Combination of the Dutch Reference and Sluiter

On page 4, first, second and third paragraph, the Examiner argues that the subject-matter of claim 12 is unpatentable over the Dutch reference (NL 9300986) in view of Sluiter. The Examiner argues that the Dutch reference comprises a crate that defines a lattice. This conclusion is not at all justified, as, at best, the crate derivable from the Dutch reference describes a double-sided wall portion (see Fig. 1) of the crate 2 having a recess. However, a hole or a recess in a wall does not make the wall itself a lattice-structured wall as this does not result in a framework of crossed strips of material, which is the above-discussed well-defined meaning of the term "lattice". Thus, the conclusion outlined on page 4, third paragraph of the Office Action, as to the definition of a lattice-structured sidewall of a crate of the Dutch reference is not at all correct and when applying the well-known meaning of the term "lattice" it is readily recognizable from the disclosure of the Dutch reference that no lattice-structure

is described here. Therefore, the Examiner's conclusion given on page 4 with regard to a possible combination of the Dutch reference and Sluiter is not correct and is respectfully traversed, i.e. these two references do not render obvious the subject-matter as defined in the independent claim.

Combination of the Dutch Reference, Sluiter and Heymann

In the paragraph bridging pages 4 and 5, the Examiner obviously recognized that his characterization of the Dutch reference as disclosing a "lattice structure" is not correct and therefore added the additional teachings of Heymann. However, the teachings of Heymann have been discussed above in detail, and at best, Heymann suggests providing a top for a crate in the form of a wire rack that might be considered a kind of lattice structure, however, Heymann is quite clear in his teaching that the lower part of the crate or the crate itself should not be in the shape of a lattice structure as this is in clear contradiction to the teachings of Heymann.

Therefore, the conclusion given in the paragraph bridging pages 4 and 5 of the Office Action, as to a possible combination of the Dutch reference, Sluiter and Heymann, is respectfully traversed.

Combination of Kuhns and Sluiter

On page 5, second and third paragraph, the Examiner argues that the subject-matter of claim 12 is not patentable over Kuhns in view of Sluiter. The Examiner argues that Kuhns describes in Fig. 1 lateral walls that define a lattice structure. More specifically, the Examiner refers to Fig. 1 and the front of the wagon as shown there. This conclusion is not understood at all by the applicant and is also not correct. Kuhns describes a vehicle side extension and Fig. 1 shows a gravity box or grain wagon having a plurality of upright rectangular walls 12 adjacent the top of a grain wagon, arranged in a rectangular configuration and a plurality of inclined walls 14 leading to a discharge chute 16. At the front of the vehicle also a ladder can be seen, however, it is evident that this part is not a part of the

sidewall, rather the walls are formed by elements 12, 14 and 24, and neither of these elements is in the shape of a lattice. Thus, the conclusion on page 5, third paragraph is simply incorrect.

Thus, neither of the references cited by the Examiner and as applied by the Examiner can suggest the inventive crate as defined in the pending claims, so that not only the subject-matter of claim 12, but only the subject-matter of its dependent claims is allowable over each and every of the combinations applied by the Examiner for the reasons set forth above. Removal of the rejection and reconsideration are respectfully requested.

CONCLUSION

Applicant respectfully posits that the pending claims are distinguished from the art of record, and that all rejections of the claims are overcome. Accordingly, Applicant respectfully requests allowance of all claims. The Examiner is invited and encouraged to contact Applicant's attorney or agent at (650) 474-8400 should any questions arise.

Respectfully submitted,

A handwritten signature in cursive script that reads "Julia A. Thomas".

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